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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CRIMINAL JURISDICTION

CRIMINAL APPEAL NO.1244 OF 2005

The State of Maharashtra)..Appellant

Versus

Abdul Rahim Nisar Ahmed @ Desai Dada)..Respondent

Dr.F.R. Shaikh, Additional Public Prosecutor, for the Appellant.

CORAM : V.G.PALSHIKAR, Acg.C.J. & SMT. NISHITA MHATRE, J.

DATED : 31ST AUGUST 2006

P.C.:

. This is an Appeal seeking enhancement of sentence awarded by the learned trial Judge. He convicted the accused under Section 307 of the Indian Penal Code and sentenced him to rigorous imprisonment for one year.

2. The learned trial Judge has given cogent reasons for awarding lesser sentence. This order reads thus :

> "18. I heard accused on the point of sentence. He submitted that he has not committed any offence and he himself was assaulted by complainant and others. The ld. Counsel for accused submitted that accused is a young person, he was also having serious injuries and was admitted in hospital for weeks together and prosecution witnesses are facing trial for it. He prayed for leniency. The ld. A.P.P. submitted that there is no

specific case made out by accused for the lenient view.

19. I have considered the facts, circumstances and evidence, it is not disputed that accused was also having serious injuries and was admitted in the hospital as a result of alleged act of prosecution witnesses. There is no evidence before me to show that there was any earlier conviction to the account of accused. The accused is in jail throughout the trial. He is a young person and therefore he deserves for the leniency. In my opinion, following order would meet the ends of justice."

2. In our opinion, the reasoning recorded by the learned Judge for granting lesser punishment is absolutely correct. We see no reason to enhance the sentence. Appeal dismissed.

(V.G.PALSHIKAR, Acg.C.J.)

(SMT.NISHITA MHATRE, J.)